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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3583 OF 2007

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.B.W. Kakade for the applicant.

Mr.K.V. Saste, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 23RD NOVEMBER 2007

P.C. :

1. Heard learned counsel for the applicant and the learned A.P.P. for the State.

2. The applicant has been arrested in connection with the crime punishable under sections 143, 144, 147, 148, 302 read with 324 of I.P.C. Charge-sheet has been filed in the Sessions Court at Sewree, Mumbai. The offence is punishable with death or imprisonment for life. The offence is of serious in nature. Motive is alleged. Two eye witnesses have named the accused in their statements. In the circumstances, there is prima facie material to connect the applicant with the

crime.

3. The applicant had filed Criminal Application No.359 of 2007 before the Sessions Court. The learned Sessions Judge by a well reasoned order dated 20th September 2007 has rejected the application. In para 9 of the order, the learned Sessions Judge has observed as follows:

> "9. Thus, once there are reasonable grounds for believing that the murder was committed in prosecution of the common object of the unlawful assembly and once it is indicated that the applicant was a member of the said unlawful assembly, it can not be said that the applicant would not be, prima-facie, liable to be prosecuted for the murder in question."

4. I see no reason to differ from the view taken by the learned Sessions Judge. In the circumstances, the application for bail is rejected.

5. It is clarified that all observations made herein are only prima facie observations for the purpose of this bail application and the learned Sessions Judge shall not in any way be influenced by the observations made herein and shall hear the case on its own merits.

(D.G. KARNIK, J.)